

Hoff, David

From: Nelson, Leverett
Sent: Tuesday, April 01, 2014 10:32 AM
To: Kyte, Larry
Subject: FW: Notice of Lodging of Three Proposed Consent Decrees Under the Comprehensive Environmental Response, Compensation, and Liability Act

Categories: Record Saved - Shared, cost recovery

From: Hubbard-Greene, Penny
Sent: Tuesday, April 01, 2014 10:28 AM
To: Murawski, Richard; Nelson, Leverett
Subject: Notice of Lodging of Three Proposed Consent Decrees Under the Comprehensive Environmental Response, Compensation, and Liability Act

[Federal Register Volume 79, Number 62 (Tuesday, April 1, 2014)]
[Notices]
[Pages 18315-18316]
From the Federal Register Online via the Government Printing Office [www.gpo.gov]
[FR Doc No: 2014-07168]

DEPARTMENT OF JUSTICE

Notice of Lodging of Three Proposed Consent Decrees Under the
Comprehensive Environmental Response, Compensation, and Liability Act

On March 26, 2014, the Department of Justice lodged three proposed Consent Decrees with the United States District Court for the Eastern District of Wisconsin in the lawsuit entitled United States and the State of Wisconsin v. NCR Corp., et al., Civil Action No. 10-cv-910 (E.D. Wis.).

In 2010, the United States and the State of Wisconsin filed a lawsuit against multiple defendants that had contributed to polychlorinated biphenyl ("PCB") contamination in sediment at the Lower Fox River and Green Bay Superfund Site in northeastern Wisconsin (the "Fox River Site" or the "Site"). That lawsuit--brought under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9601-75--sought enforcement of a U.S. Environmental Protection Agency order requiring cleanup work at the Site, reimbursement of response costs that the United States and the State have incurred in addressing the PCB contamination at the Site, and recovery of damages for injuries to natural resources resulting from the PCBs at the Site. The three proposed Consent Decrees contain the terms of proposed CERCLA settlements with nine parties for the Fox River Site.

The first proposed Consent Decree is with the City of Appleton, CBC Coating Inc., Menasha Corporation, the Neenah-Menasha Sewerage Commission, U.S. Paper Mills Corporation, and WTM I Company. Those six Settling Defendants would pay a total of \$54 million toward the response costs and natural resource damages associated with the Site. The State would pay an additional \$100,000 to resolve its own potential

CERCLA liability, as alleged in certain counterclaims asserted by some of the defendants in the lawsuit.

The second proposed Consent Decree is with Settling Defendant Kimberly-Clark Corporation. Kimberly-Clark would pay the United States and the State a total of \$1,350,000 under this de minimis settlement pursuant to CERCLA Section 122(g), 42 U.S.C. 9622(g).

The third proposed Consent Decree is with Settling Defendant NewPage Wisconsin System Inc. ('NewPage'). NewPage filed a petition for relief under Chapter 11 of the Bankruptcy Code in 2011. The proposed Consent Decree with NewPage would grant the United States and the State allowed general unsecured claims for a total of \$1,157,254 that would be paid as allowed claims under NewPage's court-approved Reorganization Plan. Because such claims are paid on a discounted basis under the Reorganization Plan, the actual distributions that the United States and the State will receive on those allowed claims may be as little as \$50,000.

Taken together, the three Consent Decrees would yield a total of approximately \$55.5 million, which would be allocated as follows: (1) Slightly more than \$45.9 million would be applied toward natural resource damages; (2) slightly more than \$8 million would be paid into a segregated fund managed by the State to defray future costs that the State will continue to incur in overseeing ongoing cleanup work by non-settlers; and (3) slightly less than \$1.6 million would be paid into a Site-specific Superfund Special Account as partial reimbursement of past and future costs incurred by the U.S. Environmental Protection Agency.

The publication of this notice opens a period for public comment on each of the three Consent Decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to United States and the State of Wisconsin v. NCR Corp., et al., D.J. Ref. No. 90-11-2-1045/3. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email.....	pubcomment-ees.enrd@usdoj.gov .
By mail.....	Assistant Attorney General, U.S. DOJ--ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the Consent Decrees may be examined and downloaded at this Justice Department Web site: <http://www.usdoj.gov/enrd/Consent-Decrees.html>. We will provide a paper copy of any of the Consent Decrees upon written request and payment of

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reproduction costs (at 25 cents per page). Please mail your request and a check or money order payable to the United States Treasury to: Consent Decree Library, U.S. DOJ--ENRD, P.O. Box 7611, Washington, DC 20044-7611.

The cost for paper copies is \$14.75 for the Consent Decree with the six Settling Defendants and the State, \$8.00 for the Consent Decree with Kimberly Clark, and \$7.50 for the Consent Decree with NewPage.

Maureen M. Katz,
Assistant Section Chief, Environmental Enforcement Section, Environment
and Natural Resources Division.

[FR Doc. 2014-07168 Filed 3-31-14; 8:45 am]

BILLING CODE 4410-15-P